

REMARKS

By the present amendment, the abstract of the disclosure has been replaced with an abstract which does not exceed 150 words in length as required by MPEP §608.01(b).

Claims 1 to 39, 44 to 51 and 53 are pending in this application. Claim 44 is amended herein. Basis for this amendment is found throughout the specification and claims as originally filed. No new matter has been added.

A Request for Continued Examination (RCE) under 37 C.F.R. 1.114 of this application is enclosed with this response.

CLAIM REJECTION UNDER 35 U.S.C. §102

The Action has affirmed the rejection of claims 1 to 15, 17, 19 to 21, 27, 28, 30 to 35, 44, 48 to 51 and 53 under 35 U.S.C. §102(b) as allegedly being anticipated by Embleton *et al.* (WO 96/06581 A1). Applicant respectfully disagrees.

As amended herein, the invention as defined by the claims, distinguishes over Embleton *et al.* by claiming methods for the manufacture of a container containing liquid, the container having a flat or single-curved rear wall.

Applicant first points out that the specification describes the terms "single-curved" and "double-curved" as follows (see paragraph [0009]):

"As used herein, the expression "single-curved" shall be understood as any form of a plane or surface obtainable from the same plane in flat form, without stretching or shrinking any part thereof in any direction within the plane, i.e. with maintained total surface for both the whole plane and any part thereof." In contrast, a "double-curved" plane or surface can only be obtained from a flat plane if deformed by stretching or shrinking."

Then, in the same paragraph, the specification describes examples of single-curved and double-curved surfaces as follows:

"As physical and non-limiting examples a cylinder surface or a corrugated surface are single-curved as they can be formed from a non-elastic sheet, e.g. paper sheet, by pure bending whereas the surface of a sphere or saddle cannot be so formed without stretching and accordingly are double-curved."

The specification also provides detailed examples of containers having flat or single-curved rear walls which are shown in the drawings at Figures 1A, 1B, 1C and 1G (see paragraph [0039] to [0045]). For example, in Fig. 1A, the container 110 is described as having a deformable rear wall 118, which is formed from an originally flat sheet material, here shown with discontinuous curvature in the form of a number of folds 119, i.e. corrugated, running perpendicular to the Figure plane (see paragraph [0039]).

In Fig. 1B, the container 120 is described as having rear wall 118 with a continuous curvature part 119, which can be formed from a flat sheet material if the curvature is constant normal to the Figure plane, as for a cylinder mantle surface (see paragraph [0040]).

In Fig. 1C, the container 130 is described as having a rear wall 138 which is formed from a single-curved material continuously curved to adapt to the cylindrical inner surface of the front wall 131 (see paragraph [0041]).

In Fig. 1G, the container 170 is described as having a rear wall 178 which is formed from a single-curved material continuously curved to adapt to the cylindrical outer surface of the front wall 171 (see paragraph [0044]).

Through these detailed descriptions and examples provided in the specification, the difference between a single-curved surface and a double-curved surface is clear: a single-curved surface is made from a non-elastic sheet by pure bending, e.g., a cylinder or corrugated surface; whereas a double-curved surface is made from an elastic sheet by stretching, e.g., a sphere or saddle.

Embleton et al. (WO 96/06581 A1)

Embleton *et al.* does not disclose any containers containing liquid or methods for their manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this publication discloses containers for use in an ocular treatment device, which are of the double-dome construction. Such containers are specifically described in the specification (at page 15, line 10 to page 19, line 15) and are shown in Figures 11 to 13, as having a double-dome construction. These hemi-spherical front and rear walls are double-curved. This publication does not disclose any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims.

Moreover, Applicant's use of the open-ended transition term "comprising" in the instant claims does not change what Embleton *et al.* discloses. As described above, this publication discloses containers having a double-dome construction and therefore, the hemi-spherical front and rear walls of these containers are double-curved. This publication does not disclose any containers having flat or single-curved rear walls as required by the instant claims. Therefore, the claimed invention is novel over the disclosure of this reference. Applicant respectfully requests reconsideration and removal of this rejection.

CLAIM REJECTION UNDER 35 U.S.C. §103

The Action has affirmed the rejection claims 16, 36 to 39, 46 and 47 under 35 U.S.C. §103(a) as allegedly being obvious over Embleton *et al.* (WO 96/06581 A1). Applicant respectfully disagrees.

As amended herein, the invention as defined by the claims, distinguishes over Embleton *et al.* by claiming methods for the manufacture of a container containing liquid, the container having a flat or single-curved rear wall.

As described in detail above, the specification describes the terms "single-curved" and "double-curved" and also provides detailed examples of containers having flat or single-curved rear walls as shown in the drawings at Figures 1A, 1B, 1C and 1G (see paragraphs [0009] and [0039] to [0045]).

Embleton et al. (WO 96/06581 A1)

Embleton *et al.* does not teach or suggest any containers containing liquid or methods for their manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this publication teaches containers for use in an ocular treatment device, which are of the double-dome construction. Such containers are specifically described in the specification (at page 15, line 10 to page 19, line 15) and are shown in Figures 11 to 13, as having a double-dome construction. These hemi-spherical front and rear walls are double-curved. This publication does not teach or suggest any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims. Furthermore, Embleton *et al.* does not teach or suggest modifying the containers of double-dome construction taught therein in order to arrive at the containers of the instant claims. Absent a teaching or suggestion in the prior art, one of ordinary skill in the art would not have been motivated to do what the Applicant's now claim.

Eisele et al. (US 5,622,166 A)

Eisele *et al.* does not cure the defects of Embleton *et al.* because this patent does not teach or suggest any containers containing liquid or methods for the manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this patent teaches a powder storage and delivery system for a drug powder inhaler having dome-shaped blisters. These hemi-spherical rear walls are double-curved. This patent does not teach or suggest any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims. Furthermore, Eisele *et al.* does not teach or suggest modifying the blisters dome-shape construction taught therein in order to arrive at the containers of the instant claims. Absent a teaching or suggestion in the prior art, one of ordinary skill in the art would not have been motivated to do what the Applicant's now claim.

Casper et al. (US 5,415,162 A)

Casper et al. does not cure the defects of Embleton et al. because this patent does not teach or suggest any containers containing liquid or methods for the manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this patent teaches a multi-dose dry powder inhalation device, which uses a blister-strip of sealed containers (20) that contains a dry powder compound or medicament. The blister-strip of sealed containers (20) is rolled from an initially flat configuration into a cylindrical configuration and the sealed containers are capable of being penetrated by a button-actuated piercing mechanism (18) for release of the powder. This patent does not teach or suggest any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims. Furthermore, Casper et al. does not teach or suggest modifying the blister construction taught therein in order to arrive at the containers of the instant claims. Absent a teaching or suggestion in the prior art, one of ordinary skill in the art would not have been motivated to do what the Applicant's now claim.

Bergerioux (US 2,208,744)

Bergerioux does not cure the defects of Embleton et al. because this patent does not teach or suggest any containers containing liquid or methods for the manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this patent teaches containers having a permanent portion and deformable flexible diaphragm, i.e., a rear wall, which are assembled at their base by crimping or soldering. In the various embodiments taught therein, the shape of the diaphragm in the full position may be of any kind, provided that after emptying of the container, the diaphragm takes up the inner shape of the container. Thus, in all the embodiments taught therein, the diaphragm is double-curved. This patent does not teach or suggest any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims. Furthermore, Bergerioux et al. does not teach or suggest modifying the container construction taught therein in order to arrive at the containers of the instant claims. Absent a teaching or suggestion in the prior art, one of ordinary skill in the art would not have been motivated to do what the Applicant's now claim.

McGill et al. (US 5,893,485)

McGill et al. does not cure the defects of Embleton et al. because this patent does not teach or suggest any containers containing liquid or methods for their manufacture, which have a flat or single-curved rear wall as required by the instant claims. Instead, this patent teaches dispensing mechanisms and containers thereof, for dispensing food products such as ice cream or chilled confectionary products usually of the semi-solid form. These containers have a cone, pyramid or spherical shape and a top part, i.e., a rear wall, formed with a sheet material having undulations which deform to adopt the shape of the internal wall of the base part of the container (see column 2, lines 13 to 15 and lines 34 to 36). As such, the top part (rear wall), adopts a cone,

pyramid or spherical shape and therefore, is double-curved. This patent does not teach or suggest any containers containing liquid or methods for their manufacture, having a flat or single-curved rear wall as required by the instant claims. Furthermore, McGill *et al.* does not teach or suggest modifying the container construction taught therein in order to arrive at the containers of the instant claims. Absent a teaching or suggestion in the prior art, one of ordinary skill in the art would not have been motivated to do what the Applicant's now claim.

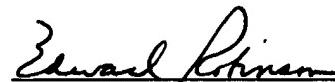
Moreover, McGill *et al.* was cited during the prosecution of U.S. Patent No. 6,730,066, which is the U.S. parent of the present divisional application, as having an IPC classification of "A23G/9/28" (Human Necessities/Cocoa; Chocolate; Confectionary; Ice Cream/Frozen Sweets, e.g., ice confectionary, ice-cream, mixtures therefore; for portioning or dispensing). Thus, this patent discloses a different class of containers than the containers of the instant claims. Therefore, the claimed invention is not obvious over the teachings of these references. Applicant respectfully requests reconsideration and removal of this rejection.

CONCLUSION

Applicants believe all claims are now in condition for allowance. Should there be any issues that have not been addressed to the Examiner's satisfaction, Applicants invite the Examiner to contact the undersigned attorney.

Respectfully submitted,

Date: June 13, 2006



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